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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/056,312	01/24/2002	Daryl S. Meredith	TN-1488	9558

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09/22/2005

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EXAMINER

HAMILTON, ISAAC N

ART UNIT	PAPER NUMBER
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3724

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Please find below and/or attached an Office communication concerning this application or proceeding.



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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/056,312
Filing Date: January 24, 2002
Appellant(s): MEREDITH ET AL.

MAILED

SEP 22 2005
Group 3700

Mr. Adan Ayala
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 06/24/05 appealing from the Office action
mailed 02/15/05.

Art Unit: 3724

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

No evidence is relied upon by the examiner in the rejection of the claims under appeal.

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

Art Unit: 3724

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 1 has been rejected under 35 U.S.C. 103(a) as being unpatentable over Ushiwata et al (5,425,294), hereafter Ushiwata, in view of Tsune (5,974,927). Ushiwata discloses base assembly 1; rotatable table 2; plane is the top surface of table 2; saw assembly 8; motor 11; blade 10; arbor 9; first portion is the section of arbor 9 that is closest to blade 10, in other words, the portion that is to the left of the vertical line A-A in figure 12, and that is labeled 9 in figure 13; first gear 9 in column 3, line 22; intermediate gear 17; second gear 12; pivot arm 6; first position in figure 12; second position in figure 4 and column 3, lines 3-5; if the position in figure 12 were changed to the second position, so that the pivot arm is at a 45 degree angle relative to the table, then the second portion would be closer to the first portion; 45 degree angle in column 3, lines 3-5. Ushiwata does not disclose a belt, however, Tsune discloses a belt in column 2, line 14. It would have been obvious to provide a belt in Ushiwata as taught by Tsune in order to provide a backlash eliminator assembly, which eliminates backlash between gears. The backlash eliminator assembly of Tsune is attached to the apparatus in Ushiwata by replacing the motor 11 (Ushiwata) with pulley 9 (Tsune), then relocating the motor in order to make room for the backlash eliminator 16. Figure 2 of Tsune suggests that there is not enough room for the backlash eliminator and the motor to be adjacent one another, and therefore the motor, belt and pulley system are utilized.

(10) Response to Argument

Appellant's arguments filed 12/17/2004 have been fully considered but they are not persuasive. In response to appellant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, appellant asserts that there is no suggestion to combine the Ushiwata and Tsune references. It is believed that the suggestion to combine the references lies in the Tsune reference. The Tsune reference discloses a backlash eliminator assembly, which eliminates backlash between gears. Since Ushiwata is configured with several interacting gears, the Tsune backlash eliminator is an improvement to the apparatus in Ushiwata and it would have been obvious to one of ordinary skill in the art to combine them. Moreover, the assembly in Tsune requires that the motor be driven with a belt and pulley system due to design constraints concerning space for the backlash eliminator. Although the belt and pulley system are not a part of the backlash eliminator, the belt and pulley are required in the configuration of any apparatus that has the backlash eliminator because of the spatial arrangements and spatial constraints. Appellant asserts that Tsune (5,823,081), hereafter Tsune '081, shows a configuration of gears with a backlash eliminator 65 that does not use a belt and pulley system to connect the motor to the second gear 74. It is believed that the Tsune '081 is capable of using a belt and pulley system with the motor in order to drive the second gear 74, which is shown in figure 7. Tsune

Art Unit: 3724

'081 does not disclose how the motor is connected to the second gear 74 in column 9, lines 25-

32. The appellant's argument is flawed because the motor is not shown in figure 7 of Tsune

'081, and there is no description of how the motor and the second gear 74 are connected.

Moreover, it appears from figure 7 of Tsune '081 that the second gear 74 is driven by an assembly that is below the second gear 74, and spaced away from the backlash assembly 65, giving credence to the argument that the motor must be spaced away from the backlash assembly.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

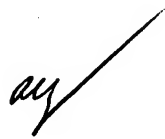
Respectfully submitted,

Isaac N. Hamilton



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